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6  
 7 UNITED STATES DISTRICT COURT  
 8 DISTRICT OF MASSACHUSETTS

9 UNITED STATES OF AMERICA, ) No. 05-cr-10175-WGY-1  
 10 Plaintiff, )  
 11 v. ) MOTION FOR LEAVE TO APPEAR  
 12 ) PRO HAC VICE  
 13 )  
 14 NADINE J. GRIFFIN, ) [EX PARTE]  
 15 Defendant. )

16 U.S. DISTRICT COURT  
 17 DISTRICT OF MASS  
 18 FILED  
 19 CLERK'S OFFICE

20 Alan Stuart Richey hereby moves this honorable court for leave to be admitted pro hac  
 21 vice in anticipation of appearing and participating as counsel in the above-entitled case on  
 22 behalf of the Defendant, Nadine J. Griffin.

23 This motion is based on the memorandum provided herein. A certificate of good  
 24 standing from the Supreme Court of the State of Washington is attached.

25 The particular need for my anticipated appearance and participation is due to Ms.  
 26 Griffin's desire to obtain counsel of her choice for assistance in this matter. Allowing my  
 27 admission may also be necessary to prevent a miscarriage of justice.

28 I understand that I am charged with knowing and complying with all applicable local  
 29 rules. I have not been disbarred or formally censured by a court of record or by a state bar  
 30 association, and there are no pending disciplinary proceedings against me.

31 WHEREFORE, it is respectfully requested that this Court order that Alan Stuart Richey  
 32 be admitted pro hac vice in the above-entitled case for the defendant.

33 Motion For Admission  
 34 Pro Hac Vice

- 1 -

35 Alan S. Richey  
 36 Attorney at Law  
 37 P.O. Box 1505  
 38 Port Hadlock, Washington 98339  
 39 (360) 437-4005

1 Dated this 27<sup>th</sup> day of May, 2006.

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5 Alan Stuart Richey, WSBA # 30578  
6 Counsel for Nadine J. Griffin, defendant  
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25 **MEMORANDUM**

The Constitution guarantees a defendant the right to counsel of her choice. The Sixth Amendment, while not providing an absolute right, guarantees a defendant a fair opportunity to secure counsel of her own choice to represent her at trial on criminal charges. Powell v. Alabama, 287 U.S. 45, 53 (1932). "It is settled law that under the Sixth Amendment criminal defendants 'who can afford to retain counsel have a qualified right to obtain counsel of their choice.'" United States v. Washington, 797 F.2d 1461, 1465 (9<sup>th</sup> Cir.1986); quoting United States v. Ray, 731 F.2d 1361, 1365 (9<sup>th</sup> Cir.1984). The limitations, as set forth by the Supreme Court of the United States, are: 1) the attorney must be a member of the bar, 2) the defendant must afford to retain counsel, 3) the attorney must accept to represent the defendant, and 4) the attorney may not have a relationship with the opposing party. Wheat v. United States, 486 U.S. 153, 159 (1988); see also, Caplin & Drysdale, Chartered v. United States, 491 U.S. 617, 624 (1989); United States v. Rogers, 984 F.2d 314, 316 (9<sup>th</sup> Cir.1993).

It is a generally accepted practice that an attorney should be admitted to practice in that jurisdiction. A problem arises when the defendant is unable to obtain local counsel, an attorney admitted into that jurisdiction, to represent her. An attorney may then be admitted pro hac vice to represent a client when the attorney is not admitted in that jurisdiction.

Motion For Admission  
Pro Hac Vice

- 2 -

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1 The importance of pro hac vice appearances by attorneys has been well noted.

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3 Nonresident lawyers have appeared in many of our most celebrated cases. For  
4 example Andrew Hamilton, a leader of the Philadelphia bar, defended John Peter  
5 Zenger in New York in 1735 in colonial America's most famous freedom-of-  
6 speech case. Clarence Darrow appeared in many of our states to plead the cause  
7 of an unpopular client, including the famous Scopes trial in Tennessee where he  
8 opposed another well-known, out-of-state lawyer, William Jennings Bryan.  
9 Great lawyers from Alexander Hamilton and Daniel Webster to Charles Evans  
10 Hughes and John W. Davis were specially admitted for the trial of important cases  
11 in other states. A small group of lawyers appearing pro hac vice inspired and  
12 initiated the civil rights movement in its early stages. In a series of cases brought  
13 in courts throughout the South, out-of-state lawyers Thurgood Marshall,  
14 Constance Motley and Spottswood Robinson, before their appointments to the  
15 federal bench, developed the legal principles which gave rise to the civil rights  
16 movement.

17 Leis v. Flynt, 439 U.S. 438, 450-451 (1979) (J. Stevens, dissenting).

18 The custom of admitting counsel pro hac vice is so well recognized that it has been  
19 observed that there "is not the slightest reason to suppose that a qualified lawyer's pro hac vice  
20 request will be denied." Id. 439 U.S. at 454. Admission pro hac vice to trial courts within their  
21 jurisdiction may not be denied without cause. In re Evans, 524 F.2d 1004, 1007 (5<sup>th</sup> Cir. 1975)  
22 (denial inappropriate except upon showing of unethical conduct); McKenzie v. Burris, 255 Ark.  
23 330, 344, 500 S.W. 2D 357, 366 (1973) (trial court may not impose arbitrary numerical  
24 limitation on the number of pro hac vice appearances by an attorney with expertise in the  
25 relevant area). See also Munoz v. United States District Court, 446 F.2d 434 (9<sup>th</sup> Cir. 1971);  
Brown v. Wood, 257 Ark. 252, 258, 516 S.W. 2d 98, 102 (1974).

26 "If no local counsel are available, a court rule requiring local counsel should be waived.  
27 . . . For these reasons, as we indicated in our earlier memorandum and as the District Judge  
28 below agrees, waiver of local rules, or admission to the bar pro hac vice, should be allowed  
29 when, as herein alleged, the non-local counsel 'was unable to find counsel locally who would  
30 sign the pleadings with him.'" Lefton v. City Of Hattiesburg Mississippi, 333 F.2d 280, 285 and  
31 286 (5<sup>th</sup> Cir. 1964).

Motion For Admission  
Pro Hac Vice

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2 In conclusion, a defendant has a constitutional right to obtain counsel of her choice.

3 When no local counsel is available, an attorney from another jurisdiction can be admitted pro hac  
4 vice to represent a defendant and should only be denied with cause. The requirement of local  
5 counsel should be waived.

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7 Dated this 24<sup>th</sup> day of May, in the Year A. D. 2006.

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10 Alan Stuart Richey  
11 Counsel for Nadine J. Griffin  
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**IN THE SUPREME COURT OF THE STATE OF WASHINGTON**

IN THE MATTER OF THE ADMISSION

BAR #30578

OF

**CERTIFICATE OF GOOD**

ALAN STUART RICHEY

**STANDING**

TO PRACTICE IN THE COURTS OF THIS STATE.

I, C.J. Merritt, Clerk of the Supreme Court of the State of Washington, hereby certify

ALAN STUART RICHEY

was regularly admitted to practice as an Attorney and Counselor at Law in the Supreme Court and all the Courts of the State of Washington, on November 17, 2000, and is now and has been continuously since that date an attorney in good standing in said Court.



IN TESTIMONY WHEREOF, I have  
hereunto set my hand and affixed  
the seal of said Court this  
24<sup>th</sup> day of May, 2006

A handwritten signature in black ink, appearing to read "C.J. MERRITT".

C.J. MERRITT, SUPREME COURT CLERK

WASHINGTON STATE SUPREME COURT